

Notice of Allowability

Application No.

10/688,999

Examiner

Eisa B. Elhilo

Applicant(s)

PLOS ET AL.

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on September 20, 2007.
2. ☒ The allowed claim(s) is/are 1-3, 5-15, 18-20 and 24-41.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

/Eisa Elhilo/
Primary Examiner, A.U. 1796

10/8/2007

DETAILED ACTION

1 This action is responsive to the amendment filed on 9/20/2007.

2 Claims 1-3, 5-15 and 24-41 allowable. Claims 18-20, previously withdrawn from
consideration as a result of a restriction requirement, requires all the limitations of an allowable
claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement
among methine and azomethine dyes of the claimed invention as set forth in the Office
action mailed on 10/3/2005, is hereby withdrawn** and claims 18-20 are hereby rejoined and
fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction
requirement, applicant(s) are advised that if any claim presented in a continuation or divisional
application is anticipated by, or includes all the limitations of, a claim that is allowable in the
present application, such claim may be subject to provisional statutory and/or nonstatutory
double patenting rejections over the claims of the instant application. Once the restriction
requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re*
Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

3 Claims 1-3, 5-15, 18-20 and 24-41 are allowed.

STATEMENT OF REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Upon further reviewing the content of the Declaration filed on 9/20/2007, it is found that
the selected species of the direct dye in the claimed composition provide superior and
unexpected results of coloration with a chromaticity coordinate $L = 38.26$ (less than 40) over the
composition of the prior art of record that shows less coloration with a chromaticity coordinate

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L= 46.5 and 43.01 (more than 40). Accordingly the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of keratin fibers dyeing formulation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 9, 2007

/Eisa Elhilo/
Primary Examiner, A.U. 1796